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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Forward-Looking Mechanism for High	)	CC Docket No. 97-160
Cost Support for Non-Rural LECs	)	
	)	

**REPLY**  
**OF PUERTO RICO TELEPHONE COMPANY, INC.**

Puerto Rico Telephone Company, Inc. ("PRTC"), by its attorneys, hereby replies to oppositions to its Petition for Reconsideration of the Ninth Report and Order and Tenth Report and Order, which were issued on November 2, 1999.<sup>1</sup> PRTC requested reconsideration of the Ninth Report and Order adopting a new high-cost support methodology, which negatively impacts PRTC (and other carriers) due to, inter alia, its inclusion of Long Term Support ("LTS").<sup>2</sup> PRTC also requested relief from the applicability of the Tenth Report and Order, which adopts model inputs that, if applied, will ultimately eliminate all universal service support for Puerto Rico. For the reasons described below, PRTC again urges the Commission to reconsider both of the orders in manner described in PRTC's Petition for Reconsideration.

<sup>1</sup> Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Ninth Report and Order and Eighteenth Order on Reconsideration, FCC 99-306 (rel. Nov. 2, 1999) ("Ninth Report and Order"); Federal-State Joint Board on Universal Service; Forward-Looking Mechanism for High Cost Support for Non-Rural LECs, CC Docket Nos. 96-45 and 97-160, Tenth Report and Order, FCC 99-304 (rel. Nov. 2, 1999) ("Tenth Report and Order").

<sup>2</sup> PRTC also requested that support be awarded for wire center costs according to a sliding scale benchmark approach based upon subscribership, at least for areas with subscribership far below the national average. PRTC Petition for Reconsideration at 8-11.

**I. LTS SHOULD BE REMOVED FROM THE USF METHODOLOGY ADOPTED IN THE NINTH REPORT AND ORDER**

Puerto Rico currently receives over \$130 million annually in combined high cost and LTS from the federal universal service fund. Puerto Rico is unique, however, in that it will be the only jurisdiction to lose all universal service support, out of all states currently receiving funding, once the methodology adopted in the Ninth Report and Order is implemented, absent the “hold-harmless” provision. The entire universal service support amount for Puerto Rico is at risk under the new methodology not because of a lack of need, but merely because no “rural” carriers serve the island. More than half of this loss is the result of the methodology’s inclusion of LTS, which comprises over \$88 million of PRTC’s annual support. Such a result is contrary to statutory universal service principles, especially given the fact that Puerto Rico currently has an island-wide subscribership level of 74.2 percent,<sup>3</sup> and should be addressed by separating LTS payments from the methodology.

Under the revised universal service methodology, universal service support will be provided where the statewide average forward looking cost per line exceeds a revised national cost benchmark of 135 percent of the national average forward looking cost per line.<sup>4</sup> The provision of support under the new methodology is expressly limited to intrastate costs that exceed the revised national benchmark).<sup>5</sup> At the same time, the Commission plans to utilize the methodology in place of LTS, which, by definition, provides support for interstate carrier common line revenue requirements relative to a total interstate common line revenue

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<sup>3</sup> See 47 U.S.C. § 254(b)(5).

<sup>4</sup> 47 C.F.R. §§ 54.309(a)(2) and (3).

<sup>5</sup> Id.

requirement.<sup>6</sup> However, the new methodology neither accommodates nor replicates LTS payments to support the Common Line pool. On this basis, a carrier's LTS support would be effectively eliminated because the methodology fails to provide for existing interstate support mechanisms. Therefore, the methodology fails to maintain "reasonably comparable" access rates, as required by Section 254(b)(1) and (b)(3) of the Communications Act of 1934, as amended (the "Act") and Commission practice.<sup>7</sup>

This oversight must be rectified. At least two "non-rural" carriers receiving LTS – PRTC and Roseville Telephone Company ("Roseville") – stand to be affected by the elimination of LTS once the new methodology is adopted. In addition, a majority of rural carriers currently receiving LTS will also find that the new methodology fails to provide for LTS. Other parties in this proceeding urged the Commission to revise the new methodology.<sup>8</sup> Specifically, the National Exchange Carrier Association ("NECA") and Roseville concurred that the Commission should remove LTS support for interstate access charges from the "hold-harmless" mechanism

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<sup>6</sup> See Federal-State Joint Board on Universal Service, Report and Order, 12 FCC Rcd 8776, 8942 (¶ 305) (1997); Federal-State Joint Board on Universal Service: Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas, Further Notice of Proposed Rulemaking, CC Docket No. 96-45, FCC 99-204, at ¶ 54 n.107 (rel. Sept. 3, 1999).

<sup>7</sup> Ninth Report and Order at ¶ 38; Federal-State Joint Board on Universal Service: Access Charge Reform, Seventh Report & Order and Thirteenth Order on Reconsideration in CC Docket 96-45 and Fourth Report & Order in CC Docket No. 96-262 and Further Notice of Proposed Rulemaking, 14 FCC Rcd 8078, 8092 (¶ 30) (1999).

<sup>8</sup> Similarly, certain members of Congress recently urged the Commission to adopt universal service reform measures. Specifically, eighteen senators led by Senator John Rockefeller urged Commission Chairman William E. Kennard to reform universal service, in part, to assure that no state receives less support than it did prior to reform and that the receipt of universal service support should be tied to consumers, instead of companies. Telephony Section, Communications Daily (Feb. 16, 2000).

and refrain from phasing out this necessary support for interstate access charges.<sup>9</sup> Similarly, the National Rural Telephone Association (“NRTA”) and the National Telephone Cooperative Association (“NTCA”) supported the proposed exclusion of LTS because this “inadvertent inclusion of interstate LTS in the hold-harmless provision threatens major adverse impacts for all participants in the NECA common line pool . . . .”<sup>10</sup> Quite simply, LTS “has no place in the Commission’s reform of . . . federal support mechanisms . . . [to] keep intrastate rates affordable and reasonably comparable for rural and urban customers.”<sup>11</sup>

Accordingly, the Commission should clarify that LTS amounts will not be determined based on the revised methodology. Instead, LTS amounts should continue to be determined based on Common Line pool requirements, and pool participants should continue to receive support through the universal service fund in accordance with the pooling process.

## **II. PRTC HAS DEMONSTRATED THAT THE MODEL METHODOLOGY SHOULD NOT BE APPLIED TO PUERTO RICO AT THIS TIME**

No statutory or public policy basis exists for applying the model methodology at this time to determine universal service support for Puerto Rico. The model result speaks for itself, in that it eliminates universal service support to an area that presents one of the greatest needs of any jurisdiction for universal service. This result is unreasonable, and no party to this proceeding has explained why support should be eliminated in its entirety. By the same token, no party has explained why Puerto Rico should be immediately transitioned to the model methodology when the fact that no “rural” carrier provides service in Puerto Rico places every dollar of USF support

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<sup>9</sup> See NECA Petition for Reconsideration at 5-6; Roseville Petition for Consideration at 3. See also NRTA and NTCA Comments at 4.

<sup>10</sup> NRTA and NTCA Comments at 3 (describing showing made by NECA).

<sup>11</sup> Id. at 2.

is at risk. The combination of (1) applying an arbitrary model place when (2) all support is at risk, plainly advises against grouping PRTC with other “non-rural” carriers for the purpose of transition to the model methodology.

MCI and AT&T opposed PRTC’s Petition for Reconsideration regarding the input values and the propriety of applying a model that produces such skewed results for Puerto Rico. MCI and AT&T both declared that the model result is appropriate, based simply on the allegation that PRTC’s costs are excessive.<sup>12</sup> These allegations, however, are not supported by fact but by the likewise unsupported allegations by yet another party in another proceeding.<sup>13</sup> In addition, these bald assertions about PRTC’s cost levels provide no support for the accuracy or reliability of the model in estimating the cost of serving an insular area, and they certainly provide no rationale for eliminating of every single dollar of USF support to the island.<sup>14</sup> In contrast, parties to the proceeding have chronicled the systemic deficiencies in the model,<sup>15</sup> and the model output for Puerto Rico is a practical demonstration of these failings. Indeed, the elimination of all universal service support to Puerto Rico “highlights the deep-rooted problems with the Commission’s new universal service mechanism.”<sup>16</sup>

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<sup>12</sup> MCI Comments, CC Docket Nos. 96-45 and 97-160 at 4; AT&T Opposition, CC Docket Nos. 96-45 and 97-160 at 4.

<sup>13</sup> See MCI Comments, CC Docket Nos. 96-45 and 97-160 at 4 n.5; AT&T Opposition, CC Docket Nos. 96-45 and 97-160 at 4 n.3.

<sup>14</sup> With respect to MCI’s comment that PRTC may not continue to receive LTS in the future (at 4), PRTC notes that the potential loss of \$50 million in universal service support is no less alarming than the loss of \$130 million.

<sup>15</sup> See, e.g., GTE Petition for Reconsideration, CC Docket Nos. 96-45 and 97-160.

<sup>16</sup> GTE Opposition to and Comments on Petitions for Reconsideration, CC Docket Nos. 96-45 and 96-98 at 4.

Given the low telephone service penetration rate in Puerto Rico, there is no legal or policy basis for transitioning PRTC to a model methodology that eliminates all universal service support. Neither MCI nor AT&T attempted to explain or identify, however, any benefits associated with the rebalancing of universal service support that is achieved through the application of the model. This rebalancing among states, which results in an increase in funding to Alabama, Kentucky, Maine, Vermont, and West Virginia, for example, cannot have been designed based on an expectation or need for marked service improvements in those states because each reports a telephone service penetration rates above 91 percent.<sup>17</sup> At the same time, this rebalancing, which eradicates universal service support for Puerto Rico cannot have been designed based on the conclusion that universal service goals have been met on the island, where the telephone service penetration rate is twenty percentage points lower than the named states that benefit from the rebalancing. Thus, the model and inputs produce the illogical result of increasing support to states where no universal service need has been identified and eliminating support for the one area — Puerto Rico — where the universal service need is patent and unquestioned.

In MCI and AT&T's unvarying adherence to the model methodology, they have lost sight of the fundamental purpose of the universal service program — the provision of basic telephone service to all subscribers. Plainly, this goal has not been reached for Puerto Rico, such that the precipitous elimination of universal service support is directly contrary to the law and public policy. Therefore, universal service support to Puerto Rico should not be calculated based on the

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<sup>17</sup> Telephone Subscribership in the United States (data through November 1999), Federal Communications Commission, Common Carrier Bureau, Industry Analysis Division, at 7, Table 2 ("Telephone Penetration Rate by State" (Percentage of Households with Telephone Service")) (rel. Jan. 2000). The penetration rates are Alabama – 91.4%, Kentucky – 92.8%, Maine – 97.2%, Vermont - 95.3%, and West Virginia – 92.7%.

model methodology at least until the Commission, the Joint Board, and Rural Task Force have determined that such a conversion is suitable for rural carriers.

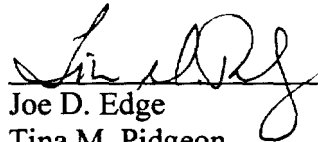
### III. CONCLUSION

The Commission should reconsider the Ninth Report and Order and Tenth Report and Order as requested in PRTC's Petition for Reconsideration. Specifically, parties generally support the exclusion of LTS from the new high-cost support methodology. In addition, PRTC has demonstrated that the Commission should not apply the model methodology to Puerto Rico at this time.

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